

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

9400-48

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on November 26, 2007.

Signature

*Tracy Wallace*Typed or printed name Tracy Wallace

Application Number

10/716,967

Filed

11/19/2003

First Named Inventor

Maria Adamczyk et al.

Art Unit

2153

Examiner

Kevin T. Bates

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

 attorney or agent of record.

48,568

Registration number _____

Signature

Elizabeth A. Stanek

Typed or printed name

919-854-1400

Telephone number

 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

May 5, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 5 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Maria Adamczyk *et al.*

Serial No.: 10/716,967

Filed: November 19, 2003

For: METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR
AUTHENTICATION OF SESSION REQUESTS FROM SERVICE PROVIDERS IN
COMMUNICATION NETWORKS

Confirmation No.: 7546

Examiner: Bates, Kevin T.

Group Art Unit: 2153

Date: May 5, 2008

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program, which was extended until further notice on January 10, 2006.

No fee or extension of time is believed due for this request beyond those requested in papers associated herewith. However, if any fee or extension of time for this request is required, Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Action mailed February 6, 2008 (hereinafter "Final Action"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Claims 1, 3-5, 9-10, 12-14, 18, 20-22 and 26, 28-30 stand rejected under 35 USC 103(a) as being unpatentable over the publication "DSL Evolution-Architecture Requirements for the Support of QoS-Enabled IP Services," Working Text: WT-081, Straw Ballot Revision (8) (March 2003) (hereinafter "DSL Forum") in view of United States Patent

No. 7,073,055 to Freed (hereinafter "Freed"). *See* Final Action, page 2. Claims 6-8, 15-17, 23-25 and 31-33 stand rejected under 35 USC 103(a) as being unpatentable over the DSL Forum in view of Freed and in further view of United States Patent No. 6,792,457 to Zhang (hereinafter "Zhang"). *See* Final Action, page 7. Applicants respectfully submit that many of the recitations of the pending claims are not met by the cited references for at least the reasons discussed herein and in Applicants' previously filed Amendment of December 20, 2007. Furthermore, Applicants submit that the Office Action of September 26, 2007 (hereinafter "the First Action") and/or the Final Action have not shown that the claims are obvious in view of the cited references. Therefore, Applicants respectfully request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicants will only discuss the recitations of the independent Claims 1, 10, 18 and 26.

Applicants respectfully submit that many of the recitations of the independent claims are neither disclosed nor suggested by the cited references for at least the reasons discussed herein. For example, Claim 1 recites:

A method of managing Quality of Service (QoS) and/or bandwidth allocation in a Regional/Access Network (RAN) having a broadband access server (BRAS) that provides end-to-end transport between a Network Service Provider (NSP) and/or an Application Service Provider (ASP), and a Customer Premises Network (CPN) that includes a Routing Gateway (RG), comprising:

receiving at the RAN, a service session request from the NSP and/or the ASP including a request to establish or terminate a communication session, the NSP and/or ASP being associated with a service provider record;

authenticating the NSP and/or the ASP based on information contained in the service provider record to provide an authentication result or a termination result; and

transmitting from the RAN, the authentication result or the termination result to the NSP and/or ASP,

wherein the RAN comprises a digital subscriber link (DSL) network;

wherein the DSL network further includes a Network Interface Protocol

Handler, a DSL Service Manager, and a DSL Session Data Store; and

wherein receiving a service session request from the NSP and/or the ASP

comprises receiving the service session request at the Network Interface Protocol Handler.

Independent Claims 10, 18 and 26 contain similar recitations to the highlighted recitations of Claim 1. Applicants respectfully submit that at least the highlighted recitations of Claim 1

are neither disclosed nor suggested by the cited combination for at least the reasons discussed herein.

The Final Action admits that the DSL Forum does not explicitly indicate the receiving authenticating and transmitting recitations of Claim 1. However, the Final Action points to Freed as providing the missing teachings. *See* Final Action, page 3. In particular, the Final Action states that Freed teaches a Service network (Abstract) that includes a DSL connection... " *See* Final Action, page 3. In fact, Freed discusses the use of cable television services to connect to the internet, not DSL. *See* Figure 1 of Freed, cable modem system. The Background of Freed even portrays DSL as less desirable than cable. *See* Freed, column 1, lines 35-46. Furthermore, the cited portions of Freed discuss a remote authentication dial-in user service (RADIUS) that provides a means that allows Internet Service Providers to authenticate a user and then return all configuration information necessary for the Internet Service Provider to provide network services to the user. *See* Freed, column 3, lines 21-25.

In stark contrast, Claim 1 recites a method of managing QoS and/or bandwidth allocation in a RAN (DSL network) that is configured to receive, authenticate and transmit as recited in Claim 1. As discussed above, Freed discusses a cable system, so by definition, Freed does not discuss receiving and authenticating at and transmitting from the DSL network. In particular, nothing in Freed discloses or suggests authenticating the NSP and/or the ASP based on information contained in the service provider record to provide an authentication result or a termination result; transmitting from the RAN, the authentication result or the termination result to the NSP and/or ASP, the DSL network including a Network Interface Protocol Handler, a DSL Service Manager, and a DSL Session Data Store and wherein receiving a service session request from the NSP and/or the ASP comprises receiving the service session request at the Network Interface Protocol Handler as recited in Claim 1. Accordingly, amended Claim 1 and the claims that depend therefrom are patentable over the cited combination for at least the reasons discussed herein.

Furthermore, nothing in the DSL Forum and/or Freed discloses or suggests the request to terminate or the termination request as recited in Claim 1. In fact, the Final Action admits that the DSL Forum and Freed lack these teachings. *See* Final Action, page 7. Accordingly, Applicants respectfully submit that amended independent Claim 1 is patentable over the cited combination for at least these additional reasons.

Applicants further submit that one of skill in the art would not be motivated to combine the cited references as suggested in the Final Action. The DSL Forum discusses the DSL standard and details thereof. Freed, on the other hand, discusses a cable system. As discussed above, the background of Freed implies that the bandwidths provided by DSL are inferior to cable. One of skill in the art would not be motivated to combine the teachings found in the DSL Forum with the cable reference of Freed as suggested in the Final Action for at least these reasons.

Accordingly, Applicants respectfully submit that independent Claims 1, 10 18 and 26 and the claims that depend therefrom are patentable over the cited combination for at least the reasons discussed above.

Accordingly, for at least these reasons, Applicants respectfully submit that the First and Final Actions fail to show that the claims of the present application are obvious in view of the cited references and, therefore, request that the present application be reviewed and that the rejections be reversed by the appeal conference prior to the filing of an appeal brief.

Respectfully submitted,
Elizabeth A. Stanek
Registration No. 48,568

USPTO Customer No. 39072
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on May 5, 2008.

Tracy Wallace
Tracy Wallace